

**IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA**

ARGELIA SOLITO,)
v.)
Plaintiff,)
SAM'S EAST INC., JOHN DOE 1-2 ABC)
Corp., and XYZ Corp.,)
Defendants.)
CIVIL ACTION
FILE NO. 23A02118

**DEFENDANT SAM'S EAST, INC.'S ANSWER
AND DEFENSES TO PLAINTIFF'S COMPLAINT**

COMES NOW, Sam's East, Inc. (hereinafter "Sam's" or "Defendant") and respectfully files its Answer and Defenses to Plaintiff's Complaint as follows:

First Defense

Pending additional investigation and discovery, Plaintiff's Complaint, taken as a whole, may fail to state a claim against Defendant upon which relief may be granted.

Second Defense

Pending additional investigation and discovery, Defendant states that Plaintiff's alleged injuries and damages were caused or contributed to by Plaintiff's own actions or inactions.

Third Defense

Pending additional investigation and discovery, Defendant states that Plaintiff's alleged injuries and damages were caused or contributed to by another party's actions.

Fourth Defense

Defendant denies that Defendant or Defendant's agents or employees were negligent in any way in connection with the incident which is the subject of this litigation.

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E-FILED
BY: Monique Roberts

Fifth Defense

Defendant breached no duty owed to Plaintiff.

Sixth Defense

Plaintiff may not recover against Defendant because no act or omission of Defendant was the legal cause or the proximate precipitating cause of Plaintiff's alleged injuries and damages.

Seventh Defense

Pending additional investigation and discovery, Defendant asserts the defenses of contributory and comparative negligence.

Eighth Defense

Plaintiff may not recover against Defendant due to Plaintiff's equal or superior knowledge of any condition which Plaintiff alleges resulted in this event.

Ninth Defense

Plaintiff failed to exercise ordinary care for Plaintiff's own safety.

Tenth Defense

Defendant denies any and all allegations regarding negligent inspection and failure to warn.

Eleventh Defense

Plaintiff is not entitled to any special damages to the extent that Plaintiff have failed to specifically plead them in accordance with O.C.G.A. § 9-11-9(g).

Twelfth Defense

Plaintiff is not entitled to attorney's fees, expenses, post-judgment interest or pre-judgment interest under the facts of this case. Further, Defendant preserves all rights against Plaintiff to the extent these claims are asserted without any justifiable basis in fact or law. If Plaintiff's claims are

determined to be false or fraudulent, Defendant reserves the right to seek all sanctions against all persons allowed by law.

Thirteenth Defense

Plaintiff is not entitled to any special damages to the extent that Plaintiff has failed to specifically plead them in accordance with O.C.G.A. § 9-11-9(g).

Fourteenth Defense

Defendant reserves the right to remove the case to Federal Court if applicable.

Fifteenth Defense

Pending additional investigation and discovery, Defendant reserves the right to assert all affirmative defenses available under the Georgia Civil Practice Act.

Sixteenth Defense

In answer to the specific allegations of Plaintiff's Complaint, Defendant shows the Court as follows:

PARTIES, VENUE AND JURISDICTION

1.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 1 of Plaintiff's Complaint, and places Plaintiff on strict proof of same.

2.

Admitted.

3.

Admitted.

4.

Denied as pled.

5.

Denied.

6.

Upon information and belief, admitted.

7.

Upon information and belief, admitted.

8.

Defendant admits that DeKalb County State Court is one proper venue for the subject litigation. Defendant denies as pled any other allegations contained in this Paragraph.

BACKGROUND

9.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 9 of Plaintiff's Complaint, and places Plaintiff on strict proof of same.

10.

Denied as pled.

11.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 11 of Plaintiff's Complaint and places Plaintiff on strict proof of same.

12.

Admitted.

13.

Admitted.

14.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 14 of Plaintiff's Complaint and places Plaintiff on strict proof of same.

15.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 15 of Plaintiff's Complaint and places Plaintiff on strict proof of same.

16.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 16 of Plaintiff's Complaint and places Plaintiff on strict proof of same.

17.

Defendant does not have sufficient information to admit or deny the allegations contained in Paragraph 17 of Plaintiff's Complaint and places Plaintiff on strict proof of same.

COUNT I
NEGLIGENCE OF SAMS EAST INC: DOCTRINE OF RES IPSA LOQUITUR

1. [sic]¹

Defendant incorporates by reference its responses to the foregoing Paragraphs of Plaintiff's Complaint.

2.

Denied.

3.

Defendant states that any such duties are established by law. Defendant denies any allegations or implications of breach of duty, negligence, and liability.

¹ Throughout the remainder of Plaintiff's Complaint, Plaintiff mis-numbers numerous Paragraphs and Counts of her Complaint. Defendant's responses to the following allegations in Plaintiff's Complaint correspond to the mis-numbered Paragraphs and Counts as they appear in Plaintiff's Complaint.

4.

Denied as pled.

5.

Denied.

6.

Defendant does not have sufficient information to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and places Plaintiff on strict proof of same.

7.

Denied.

8.

Denied.

COUNT II
NEGLIGENT MAINTENANCE OF PREMISES

18. *[sic]*

Defendant incorporates by reference its responses to the foregoing Paragraphs of Plaintiff's Complaint.

19.

Denied.

20.

Defendant does not have sufficient information to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and places Plaintiff on strict proof of same.

21.

Denied.

22.

Defendant states that any such duties are established by law. Defendant denies any allegations or implications of breach of duty, negligence, and liability.

23.

Denied.

24.

Denied.

25.

Denied.

26.

Denied.

27.

Denied.

COUNT III
VICARIOUS LIABILITY

28.

Defendant incorporates by reference its responses to the foregoing Paragraphs of Plaintiff's Complaint.

29.

Defendant does not have sufficient information to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and places Plaintiff on strict proof of same.

30.

Denied as pled.

COUNT IV
NEGLIGENT TRAINING & SUPERVISION

31.

Defendant incorporates by reference its responses to the foregoing Paragraphs of Plaintiff's Complaint.

32.

Denied.

33.

Denied.

34.

Denied.

COUNT IV [sic]
SAMS EAST INC'S NEGLIGENCE PER SE: VIOLATION OF § O.C.G.A. 51-3-1

1. [sic]

Defendant incorporates by reference its responses to the foregoing Paragraphs of Plaintiff's Complaint.

2.

Denied.

3.

Denied.

4.

Denied.

5.

Denied.

6.

Denied.

7.

Denied.

8.

Denied.

9.

Denied.

10.

This Paragraph of Plaintiff's Complaint is a legal conclusion to which no response is required. Defendant denies any alleged violation of this code section.

11.

Defendant does not have sufficient information to admit or deny the allegations contained in this Paragraph, and places Plaintiff on strict proof of same.

12.

Denied.

13.

Denied.

COUNT V [sic]
NOTICE OF INTENT TO USE CERTIFIED DOCUMENTS AT TRIAL

35. [sic]

Defendant denies that this Paragraph of Plaintiff's Complaint is sufficient notice of Plaintiff's intent to introduce unidentified and unprovided certified documents at trial pursuant to O.C.G.A. §§ 24-8-803, 24-9-902.

36.

Defendant denies that Plaintiff is entitled to any of the relief requested in the “WHEREFORE” paragraph immediately following Paragraph 35 of Plaintiff’s Complaint, with the exception of subparagraph (g).

37.

Any allegations contained in Plaintiff’s Complaint not admitted, denied, or otherwise responded to above are hereby denied.

WHEREFORE, having fully responded to the allegations contained in Plaintiff’s Complaint, Defendant respectfully requests that said Complaint be dismissed and that judgment be issued for Defendant and that Defendant be discharged without costs.

DEFENDANT DEMANDS A TRIAL BY A JURY OF TWELVE.

Respectfully submitted, this 23rd day of June, 2023.

DREW ECKL & FARNHAM, LLP

/s/Michael L. Miller

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CERTIFICATE OF SERVICE

Today I served a copy of *Defendant Sam's East, Inc.'s Answer and Defenses to Plaintiff's Complaint* upon counsel of record via Statutory Electronic Service and through Odyssey eFileGA, which will electronically serve the following:

Ashanti Armstrong, Esq.
Sean Fields, Esq.
Hung Q. Nguyen, Esq.
770 Good Law, H.Q. Alex Nguyen Law Firm, LLC
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ashanti@770goodlaw.com

This 23rd day of June, 2023.

DREW ECKL & FARNHAM, LLP

/s/*Michael L. Miller*
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